IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24672 of 2007
To
SPECIAL CIVIL APPLICATION No. 24680 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.S.SHAH
AND
HONOURABLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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TRIBHOVANDAS GANGARAMDAS PATEL & 8 - Petitioner(s)
Versus
STATE OF GUJARAT & 4 - Respondent(s)

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Appearance :
MR TUSHAR MEHTA for Petitioner(s) : 1 - 9.
MR MAULIK NANAVATI for Respondent(s) : 1 - 3,
MR BS PATEL for Respondent(s) : 4 - 5.

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CORAM : HONOURABLE MR.JUSTICE M.S.SHAH
and
HONOURABLE MR.JUSTICE K.A.PUJ

Date : 25/09/2007
ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE M.S.SHAH)

What is challenged in this petition under Article 226 of the Constitution is the order dated 17.08.2007 of the Collector, Mehsana setting aside the election programme for election of delegates who are eventually to participate in the election of Directors of Mehsana District Central Co-operative Bank Ltd.

2. Mehsana District Central Co-operative Bank Ltd. (herein after referred to as “the Bank”) had published the election programme in the news paper dated 11.08.2007 giving the following schedule for election of delegates of individuals as well as for election of delegates of “other Co-operative Societies” :-

| Sr. No. | Particulars | Date |
|---|---|---|
| 1 | Publication of the provisional voters list at the head office at Mehsana and at the branches in Talukas. | 11.08.2007 |
| 2 | Last date for lodging objections against the list at the head office. | 14.08.2007 |
| 3 | Publication of final list of voters with amendments. | 17.08.2007 |
| 4 | Nomination forms to be filed | 20.08.2007 and 21.08.2007 |
| 5 | Scrutiny of nomination forms. | 22.08.2007 |
| 6 | Publication of the list of valid nominations after scrutiny. | 22.08.2007 |
| 7 | Withdrawal of nominations | 24.08.2007 |
| 8 | Polling | 27.08.2007 and 30.08.2007 |

3. By the impugned order dated 17.08.2007, the Collector set aside the election programme and public notice to that effect was published in the news papers dated 19.08.2007.

In Special Civil Application No.21501 of 2007, the Bank challenged the aforesaid order of the Collector on various grounds. That petition ultimately came to be disposed of by our order dated 17.09.2007, wherein we gave various directions for preparation of publication and finalisation of the voters list for electing delegates of individual members and also directions regarding election of delegates from the constituency of “other Co-operative Societies” mentioned in by–law No.38.

4. The petitioners, 9 in number, contend that they are representatives of “other Co-operative Societies” in the Mehsana District and the Managing Committees of the respective Co-operative Societies had nominated them for participating in the election of delegates of “other Co-operative Societies” and that accordingly, they had also filed their nomination forms on 20.08.2007 or 21.08.2007 and therefore, their names came to be included in the list of valid

nominations on 22.08.2007, which list is produced at Annexure-F to the petition. The petitioners submit that the impugned order dated 17.08.2007 was passed by the Collector without jurisdiction and on absolutely erroneous basis. Hence, the elections of delegates of other Co-operative Societies may be allowed to be proceeded with from the stage of declaration of valid nominations on 22.08.2007.

5. In the facts and circumstances of the case, we are not required to examine the legality of the Collector's order dated 17.08.2007 at the instance of the present petitioners for the simple reason that the election programme dated 11.08.2007 was set aside by the Collector and public notice to that effect was also published in the news paper dated 19.08.2007. A number of Co-operative Societies were, therefore, naturally entitled to proceed on the basis that in view of the Collector's order dated 17.08.2007, there could be no question of the Bank proceeding with the elections of delegates either in the individual members constituency or for the constituency of “other Co-operative Societies”. The inference that we are drawing is also borne out by the fact that in 8 out of 9 Talukas for the constituency of “other Co-operative Societies” in as many as 8 Talukas, the number of

candidates is the same as the number of delegates required to be elected. For instance, in Mehsana Taluka, 12 delegates are required to be elected out of the representatives of “other Co-operative Societies”. From Annexure-F itself, it appears that in Mehsana Taluka, there are more than 300 voters in the constituency of “other Co-operative Societies” but representatives of only 12 “other Co-operative Societies” sent their nominations. Similarly, in Siddhapur Taluka, there are more than 80 voters in the above constituency, out of which only 4 Co-operative Societies have nominated their representatives for being elected as delegates and the number of delegates to be elected is also only 4. It is only in Kadi Taluka that against two delegates required to be elected, there are five candidates out of total more than 60 voters.

6. The above facts, therefore, clearly reveal that on account of the Collector having set aside the election programme on 17.08.2007 and wide publicity having been given thereto in the daily news paper dated 19.08.2007, a large number of Co-operative Societies did not even think of nominating their representatives for participating in the election of delegates for the constituency of “other Co-operative Societies”. It needs to be noted that it is these delegates who will elect one

Director from the constituency of “other Co-operative Societies”. Similarly, the delegates to be elected by individual members would elect three Directors from the constituency of individual members.

7. Looking to the above ramifications and consequences of election of delegates of individual members as well as election of delegates of “other Co-operative Societies”, the list of valid nominations published by the Bank on 22.08.2007 cannot be permitted to be acted upon and elections of delegates from the constituency of individual members as well as election of delegates of other Co-operative Societies will have to be held afresh right from the stage of declaration of the election programme.

8. For the above reasons, we do not find any merit in these petitions. The petitions are, therefore, summarily dismissed.

[M.S.SHAH, J.]

[K.A.PUJ, J.]

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